

1 QUINTIN SHAMMAM (STATE BAR NO. 246926)  
LAW OFFICES OF QUINTIN G. SHAMMAM  
2 2221 Camino del Rio South, Suite 207  
San Diego, California 92108  
3 TEL: (619) 444-0001  
FAX: (619) 501-1119  
4

5 Attorney for Plaintiff:  
Johan Engman  
6

7  
8 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
9

Johan Engman, an individual, ) Case No.: '16CV0209 AJB JMA  
10 )  
Plaintiff, ) COMPLAINT FOR DAMAGES AND  
11 ) INJUNCTIVE RELIEF UNDER THE  
12 vs. ) TELEPHONE CONSUMER PROTECTION  
13 ) ACT, 47 U.S.C. § 227 *ET SEQ.*  
JP MORGAN CHASE BANK, ) JURY TRIAL DEMANDED  
14 )  
15 Defendant. )  
16 )

17 Plaintiff, Johan Engman ("Plaintiff") alleges as follows:

18 INTRODUCTION

19 1. Defendant, JP MORGAN CHASE BANK ("Defendant"), negligently  
20 and/or willfully contacted Plaintiff on his cellular telephone  
21 in violation of the Telephone Consumer Protection Act, 47 U.S.C.  
22 § 227 *et seq.*, ("TCPA"), thereby invading Plaintiff's privacy.

23 2. Under the TCPA it is unlawful for a party to call a  
24 cellular telephone number using an automatic telephone dialing  
25 system or artificial or prerecorded voice without the  
26 recipient's prior express consent.

27 ////

28 ////

**JURISDICTION AND VENUE**

3. This court's jurisdiction arises under the TCPA over which the U.S. District Court has original subject matter jurisdiction under 28 U.S.C. § 1331, (*Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740,753 (2012)).

4. Venue is proper in the United States District Court for the Southern District of California under 18 U.S.C. § 1391(b) because the Defendant is registered as a corporation with the California Secretary of State and does business within the State of California and the County of San Diego.

**PARTIES**

5. Plaintiff is an individual and resident of California. Plaintiff is a person under 47 U.S.C. § 153(39).

6. Defendant regularly does business in the State of California and maintains an agent for service of process within the State of California.

7. Defendant is a corporation and/or national banking association and thus a person as defined by 47 U.S.C. § 153(39).

**FACTUAL ALLEGATIONS**

8. Plaintiff owed money on a mortgage. Between May 8, 2015, and May 29, 2015, Defendant used an artificial and/or prerecorded voice message when contacting Plaintiff's cellular phone in connection with collection of Plaintiff's mortgage debt.

9. Plaintiff knew Defendant was calling using an artificial and/or prerecorded voice message because he heard a computer generated voice that identified Defendant as the caller and the content of the artificial or pre-recorded message stated that

1 "[t]his is Chase calling with an important message for the  
2 mortgage customer at this phone number please contact us at 800-  
3 848-9380." The voice on the other end of the calls did not  
4 respond to Plaintiff's voice or questions but was merely a  
5 recording that also included silence with no live person  
6 responding.

7 10. Defendant contacted Plaintiff using artificial or  
8 prerecorded voice message, as identified above, at least 12  
9 times.

10 11. Plaintiff never provided his cellular telephone number to  
11 Defendant and never gave Defendant consent to contact him on his  
12 cellular telephone with an artificial or prerecorded voice  
13 message.

14 12. Plaintiff spoke with Defendant's representatives and  
15 demanded that he not receive any calls from Defendant whether it  
16 be live or an artificial or prerecorded voice message.  
17 Nevertheless, Defendant continued to contact Plaintiff using an  
18 artificial or prerecorded voice message despite his demand that  
19 Defendant not contact him.

20 13. Defendant's artificial or prerecorded voice messages to  
21 Plaintiff's cellular telephone continued weekly, including calls  
22 in the early morning.

23 14. Defendant's telephone calls, all prior to the date this  
24 complaint was filed, but sometime after four years prior to the  
25 date this complaint was filed, were directed to Plaintiff on his  
26 cellular telephone with an artificial or pre-recorded voice as  
27 prohibited by 47 U.S.C. § 227(b)(1)(A)(iii).

28 15. The telephone number Defendant called was assigned to a

1 cellular telephone service for which Plaintiff incurs a charge  
2 for incoming calls under 47 U.S.C. § 227(b)(1)(A)(iii).

3 16. Plaintiff did not provide prior express consent to  
4 Defendant to receive calls on his cellular telephone, under 47  
5 U.S.C. § 227(b)(1)(A).

6 17. These telephone calls by Defendant violated the TCPA.

7 **FIRST CAUSE OF ACTION**

8 **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT**

9 **47 U.S.C. §227 ET SEQ.**

10 18. Plaintiff incorporates by reference all of the above  
11 paragraphs of this complaint as though fully stated herein.

12 19. The foregoing acts and omissions of Defendant constitutes  
13 numerous and multiple negligent violations of the TCPA,  
14 including but not limited to each and every one of the above-  
15 cited provisions of 47 U.S.C. § 227 et seq.

16 20. As a result of Defendant's negligent violations of 47  
17 U.S.C. § 227 et seq., Plaintiff is entitled to an award of  
18 \$500.00 in statutory damages, for each and every violation,  
19 under 47 U.S.C. § 227(b)(3)(B).

20 21. Plaintiff is also entitled to injunctive relief prohibiting  
21 such conduct in the future.

22 **SECOND CAUSE OF ACTION**

23 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE CONSUMER**

24 **PROTECTION ACT**

25 **47 U.S.C. §227 ET SEQ**

26 22. Plaintiff incorporates by reference all of the above  
27 paragraphs of this complaint as though fully stated herein.

28 23. The foregoing acts and omissions of Defendant constitute

1 numerous and multiple knowing and/or willful violations of the  
2 TCPA, including but not limited to each and every one of the  
3 above-cited provisions of 47 U.S.C. § 227 *et seq.*

4 24. As a result of Defendant's knowing and/or willful  
5 violations of 47 U.S.C. § 227 *et seq.*, Plaintiff is entitled to  
6 treble damages, as provided by statute, up to \$1,500, for each  
7 and every violation, under 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C.  
8 § 227(b)(3)(C).

9 25. Plaintiff is also entitled to injunctive relief prohibiting  
10 such conduct in the future.

11 **PRAYER FOR RELIEF**

12 Wherefore, Plaintiff respectfully requests the Court grant  
13 him the following relief against Defendant:

14 **FIRST CAUSE OF ACTION**

15 **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT**

16 **47 U.S.C. § 227 *ET SEQ.***

17 As a result of Defendant's negligent violations of 47  
18 U.S.C. § 227(b)(1), Plaintiff seeks (1) \$500.00 in statutory  
19 damages, for each and every violation, under 47 U.S.C. §  
20 227(b)(3)(B); (2) injunctive relief prohibiting such conduct in  
21 the future under 47 U.S.C. § 227(b)(3)(A); and (3) any other  
22 relief the Court may deem just and proper.

23 **SECOND CAUSE OF ACTION**

24 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE CONSUMER**

25 **PROTECTION ACT**

26 **47 U.S.C. § 227 *ET SEQ***

27 As a result of Defendant's knowing and/or willful  
28 violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks (1) treble

1 damages, as provided by statute, up to \$1,500, for each and  
2 every violation, under 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. §  
3 227(b)(3)(C); (2) injunctive relief prohibiting such conduct in  
4 the future under 47 U.S.C. § 227(b)(3)(A); and (3) any other  
5 relief the Court may deem just and proper.

6 **TRIAL BY JURY**

7 Under the seventh amendment to the Constitution of the  
8 United States of America, Plaintiff is entitled to, and demands,  
9 a trial by jury.

10  
11 DATED: 1/26/2016

LAW OFFICES OF QUINTIN G. SHAMMAM

12  
13 By: s/Quintin G. Shammam  
14 QUINTIN G. SHAMMAM, Attorney  
15 for Plaintiff, Johan Engman.  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28